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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,043	10/13/2005	Xin Lu	5585-69856-01	6728

24197 7590 09/18/2006

KLARQUIST SPARKMAN, LLP  
121 SW SALMON STREET  
SUITE 1600  
PORTLAND, OR 97204

EXAMINER

AEDER, SEAN E

ART UNIT PAPER NUMBER

1642

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,043	<b>Applicant(s)</b> LU ET AL.	
	<b>Examiner</b> Sean E. Aeder, Ph.D.	<b>Art Unit</b> 1642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 10-15, 17, 19, 20, 22-29, 31-39, 41, 43-46, 49-52 and 54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-6, 8, 10-15, 17, 19, 20, 22-29, 31-39, 41, 43-46, 49-52, and 54 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                      | 5) <input type="checkbox"/> Notice of Informal Patent Application                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 1-3, 8, and 11-14, as specifically drawn to isolated nucleic acid molecules which encode SEQ ID NO:8 or variants thereof that encode polypeptides which inhibit the apoptotic activity of p53.

Group 2, claim(s) 1, 4-6, 8, 11-14, 28 and 29, as specifically drawn to isolated nucleic acid molecules which encode SEQ ID NO:9 or variants thereof that encode polypeptides which inhibit the apoptotic activity of p53.

Group 3, claim(s) 10, 15, 35-39, 41, 43-46, and 49-51, as specifically drawn to polypeptides or fragments thereof encoded by a nucleic acid of group 1.

Group 4, claim(s) 10, 15, and 31, as specifically drawn to polypeptides or fragments thereof encoded by a nucleic acid of group 2.

Group 5, claim(s) 17, as specifically drawn to transgenic non-human animals comprising a nucleic acid molecule of group 1.

Group 6, claim(s) 17, as specifically drawn to transgenic non-human animals comprising a nucleic acid molecule of group 2.

Group 7, claim(s) 19, 20, and 22-27, as specifically drawn to a screening method to identify agents which inhibit the binding of a polypeptide, or fragment thereof, to p53 comprising forming a preparation comprising the polypeptide of group 3.

Group 8, claim(s) 19, 20, and 22-27, as specifically drawn to a screening method to identify agents which inhibit the binding of a polypeptide, or fragment thereof, to p53 comprising forming a preparation comprising the polypeptide of group 4.

Group 9, claim(s) 32, 34, 52, and 54, as specifically drawn to a method of treatment comprising administering a polypeptide of group 3.

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Group 10, claim(s) 32 and 34, as specifically drawn to a method of treatment comprising administering a polypeptide of group 4.

Group 11, claim(s) 33, as specifically drawn to a method of treatment comprising administering a polynucleotide of group 1.

Group 12, claim(s) 33, as specifically drawn to a method of treatment comprising administering a polynucleotide of group 2.

The inventions listed as groups 1-12 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The technical feature linking groups 1-12 appears to be that they all relate to the special technical feature of an isolated nucleic acid molecules which encode SEQ ID NO:8 or variants thereof that encode polypeptides which inhibit the apoptotic activity of p53.

However, Stiewe et al (JBC, 4/19/02, 277(16): 14177-14185) teaches an isolated nucleic acid molecule,  $\Delta$ TA-p73 $\beta$ , which encodes SEQ ID NO:8 or a variant thereof that encodes a polypeptide which inhibits the apoptotic activity of p53 (see Figure 5 E and page 14178, in particular).


Therefore, the technical feature linking the inventions of groups 1-12 does not constitute a special technical feature as defined by PCT Rule 13.2, as it does not define a contribution over the prior art.

Accordingly, groups 1-12 are not so linked by the same or a corresponding special technical feature as to form a single general inventive concept.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Aeder, Ph.D. whose telephone number is 571-272-8787. The examiner can normally be reached on M-F: 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JEFFREY SIEW  
SUPERVISORY PATENT EXAMINER